



**THE ATTORNEY GENERAL
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November 5, 1976

The Honorable H. Q. Sibley
Executive Director
Texas Animal Health Commission
1020 Sam Houston State Office
Building
Austin, Texas 78701

Opinion No. H-893

Re: Authority of the
Texas Animal Health
Commission to require
compulsory brucellosis
vaccination of animals.

Dear Dr. Sibley:

You have requested our opinion regarding whether the Texas Animal Health Commission, formerly the Livestock Sanitary Commission, may require brucellosis vaccination of animals under section 23A of article 7014f-1, V.T.C.S.

Section 23A provides, in pertinent part:

(1) Purpose. It is the purpose of this Section to bring about the effective control and eventual eradication of bovine brucellosis in the State of Texas and to accomplish that purpose in the most effective, practical and expeditious manner.

Section 23A authorizes the establishment of two types of "brucellosis control areas." Subsection (7). In a Type I control area, the statute requires that

all female calves . . . be officially vaccinated within ages fixed by regulation. Subsection (7).

In a Type II control area, the Commission is empowered

to conduct such tests, vaccinations, and other practices . . . as may be necessary to qualify said county for certification or recertification as a modified certified brucellosis free area as outlined in the uniform regulations of the United States Department of Agriculture and the Livestock Sanitary Commission of Texas. Subsection (9). (Emphasis added).

Thus, as to Type I control areas, the authority of the Commission to require vaccinations has been limited by statute to female calves within ages fixed by regulations of the Commission, while its authority in a Type II control area has been sufficiently broadened by the Legislature to require the vaccination of any animal whose vaccination it deems necessary.

In order to designate a county or other area as a "brucellosis control area," the Commission is required to follow the procedures outlined in subsection (6). Another provision of section 23A, however, permits the Commission to designate "any county or area as a Type II control area" upon

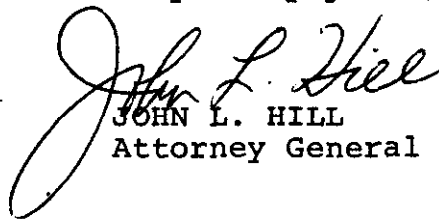
a finding that at least 75 percent of the cattle owners of the State . . . owning at least 51 percent of the cattle within the State, have petitioned the Commission for establishment of Type II brucellosis control areas. Subsection (4a).

Thus, we point out that, while the Legislature in section 23A has placed some limitations upon the Texas Animal Health Commission's authority to require brucellosis vaccinations, it has specified the classifications and circumstances under which it may do so.

S U M M A R Y

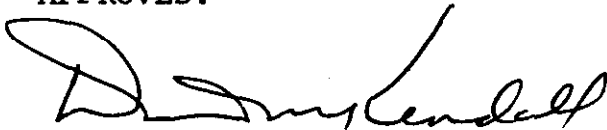
Section 23A of article 7014f-1, V.T.C.S., does not confer blanket authority upon the Texas Animal Health Commission to require brucellosis vaccinations, but it permits the Commission to do so under circumstances described by statute.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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